

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAVIER SALAZAR,

Plaintiff,

v.

Case No. 07-CV-238

NANNETTE HEGARTY, CITY OF MILWAUKEE,
CHAD WAGNER, TIMOTHY BURKEE,
MICHELLE FORMOLO and RODNEY KLOTKA,

Defendants.

DECISION AND ORDER

The plaintiff filed this *pro se* civil rights complaint under 42 U.S.C. § 1983 and is proceeding *in forma pauperis*. In a decision and order dated July 17, 2008, the court granted the plaintiff's motion to file an amended complaint and dismissed defendant Detective Agustin Molina because the body of the amended complaint did not contain allegations against him. This matter now comes before the court on plaintiff's motion to file a second amended complaint.

The plaintiff's motion to amend the complaint complies with Civil Local Rule 15.1. The only substantive change in the plaintiff's second amended complaint is the addition of a factual allegation regarding the personal involvement of Detective Agustin Molina. The plaintiff asserts that Detective Agustin Molina issued the temporary felony warrant for the plaintiff without probable cause. The defendants have filed a response indicating they have no objection to the plaintiff being allowed to file this second amended complaint. Rule 15(a) of the Federal Rules of Civil

Procedure states that leave to file an amended complaint “shall be freely given when justice so requires.” The court will grant the plaintiff’s motion to file an amended complaint, and Detective Agustin Molina will be added as a defendant in this litigation.

The court is required to screen all complaints. 28 U.S.C. § 1915A(a). The changes reflected in the plaintiff’s second amended complaint do not alter the analysis set forth in the court’s July 17, 2008 decision and order, which discusses the claims on which the plaintiff may proceed in this case.

Accordingly,

IT IS ORDERED that the plaintiff’s motion to file a second amended complaint (Docket #52) be and is hereby **GRANTED**.

IT IS FURTHER ORDERED that Detective Agustin Molina be and is hereby **ADDED** as a party defendant to this litigation.

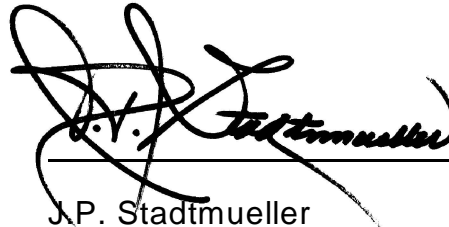
IT IS FURTHER ORDERED that the United States Marshal shall serve a copy of the second amended complaint, the summons, and this order pursuant to Federal Rule of Civil Procedure 4 upon the following defendant: Detective Agustin Molina. The plaintiff is advised that Congress requires the U.S. Marshals Service to charge for making or attempting such service. 28 U.S.C. § 1921(a). The current fee of waiver-of-service packages is \$8.00 per item mailed. The full fee schedule is provided at 28 C.F.R. §§ 0.114(a)(2), (a)(3). Although Congress requires the court to order service by the U.S. Marshals Service precisely because *in forma pauperis*

plaintiffs are indigent, it has not made any provision for these fees to be waived either by the court or by the U.S. Marshals Service.

IT IS FURTHER ORDERED that the defendants shall file a responsive pleading to the second amended complaint.

Dated at Milwaukee, Wisconsin, this 22nd day of October, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge